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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,768	07/06/2000	William P. Alberth JR.	CS10557	5526

7590 08/07/2008
Ray Warren (PJB)
Motorola inc
Personal Communications Sector
600 North US Highway 45
Libertyville, IL 60048

EXAMINER

TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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08/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 4,12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4 and 12, as disclosed in the specification, the termination of sending the stored message is based on the detection of **depressing any keys on the subscriber unit** (See specification, page 9 lines 3-6) or the detection of the **user's voice signals** (See specification, figures 2-3, page 8 line 9 to page 9 line 2 and page 10 line 29 to page 11 line2), not the audio signals. The audio signals can be recorded upon initiating a call and transmitted as stored message or in combination with a pre-stored message when the call is established and the user's voice signals are not detected. Correction is required.

Claim 17 is rejected for the same reasons cited above.

Response to Arguments

Applicant's arguments filed 04/09/2008 have been fully considered but they are not persuasive.

The applicant argued that the examiner has sought to impose a restriction into the claims (claims 4 and 12) as the examiner has misconstrued the requirements of 35 U.S.C. 112 (See Remark, page 8). The examiner respectfully disagrees with the

Art Unit: 2618

applicant's argument. In this instant case, claims 4 and 12 recite limitations such as "terminating sending the stored message without resuming during the call initiated from the wireless device, when an audio signal is picked-up by a microphone of the wireless device". The termination of sending the stored message is based on the detection of **depressing any keys on the subscriber unit** (See specification, page 9 lines 3-6) or the detection of the **user's voice signals** (See specification, figures 2-3, page 8 line 9 to page 9 line 2 and page 10 line 29 to page 11 line 2), and is not based on detected audio signals at all as disclosed through out the specification.

Allowable Subject Matter

2. Claims 4 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance have been indicated in the Office Action mailed on 03/21/2007.

3. Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance have been indicated in the Office Action mailed on 03/21/2007.

4. Claims 1-2, 5-10, 13-16, 18-24 and 26-30 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons for allowance have been indicated in the Office Action mailed on 03/21/2007.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN A. TRAN whose telephone number is (571)272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone

Art Unit: 2618

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan A Tran/
Primary Examiner, Art Unit 2618